App F IX 4

Previous References 1944 Municipal File No 42-4(

42-43-34,35-

42-43-17,116 Serial Nos 49,50

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two 30

Part B for October 44

SUBJECT

Electoral Roll A-44 Kalliah and
presidency of the Tiruvur Municipal
Council

Re Circular No G
L 3449 dated 17.10.44
Notices

6/2

Petition of 8/8/64 from Dr. H
Szirtes, Mel Councillor, Hungary
contesting the validity of the election
for the Presidentship of the Mel el
and praying that from Learning the
the matter

1) Proposals for re the election
of a president for the Hungarian Town Mel el
have not yet been received
If offered, this will be forwarded
to the D c Chief Clerk for careful
Subs
hma
21/8

2) Pl see if there is any
file on the Mel Soc Shelf
about this case. I do
not remember to have received
any reports about it so far

hm
21/8/64

3) There is no such proposal pending
in the branch
hma
25/8

4) This petn will be sent
to the D c Chief Clerk for subm
if the records, if any, connected
with this case
hm 25/8/64

5) This has been received
hm 31-8-64

There is no
file in the
branch on
the Soc Mel
hm
25/8

hm
25/8/64

1643 2 1643

From The D chittagong

No AG 1669/43 dt 29/8/1943

Requests approval to the election of Mr A M Kalliah as President of the Hongsa Tonjongya Mal el

7) In the circumstances stated by the D C, the notification is perhaps for orders

8) There is a petition re election put up & note the points referred to therein Have all of them been met by the Enquiry Officer?

for 29 Aug

9) There are two petitions The following are the points referred to therein -

1) The meeting for the election of the President was held beyond the period of two months which is contrary to Rule 1(a)

(2) The process of elimination, as prescribed in the rules, was not followed Voting by ballot was adopted

3) There were three candidates for the office of the presidentship one candidate was permitted to withdraw this is irregular

4) counting of votes was done by a person who was interested in the elected president

10) on all the above four counts, the Enquiry officer has ~~made~~ recommended ruling in favour of A

11) There are few more grounds entitling the election, as seen from the two petitions.-

1) The election of the president should take place within one month from the date of reconstitution of the hall of this was not done as the hall was reconstituted with effect from 1-4-46 & the election was held on 9 5 46

(This seems to be no ~~objection~~ ground at all, as this should be done only in the case of a reconstitution of a council already enjoying the privilege of vide Rule 1 (11))

(2) That the previous mel el did not enjoy the privilege of having a non-official President, although the council was in existence when the go dy 17-1-44 conferring the privilege was issued. The reconstituted mel el cannot enjoy the privilege granted to the previous council, unless govt grant this by means of another order

There is no reason as to why govt have to issue another go in this behalf - this objection is also invalid

(3) The former go dy 17-1-44 can only be taken into consideration for holding the meeting of the election but not the subsequent go dy 18-4-44 making certain corrections of the mistake noticed in the Kannada copy of the go dy 17-1-44

{ This is also not proper objection and this point has been dealt with by the Enquiry officer and his ruling in this behalf seems to be correct }

12) In the above circumstances, the following two points require notice -

1) whether the voting by ballot is admissible, whether there is a definite system provided in the Rules ~~to the effect~~

16 bl
/ 1643

Election of President to Hiregunnamath

2) whether the candidate may be permitted to withdraw his candidature though there is no definite rule in this behalf, this does not in any away prejudice the right of the petitioner but the petitioners objection is that this method is not provided in the Rules

13) The Law section may be consulted on the several points raised contesting the validity of the election subject with reference to paras 5, 6 and 8 supra

Mar 11/9

In Connection with the election of the President to the Hiregunna Mutt we placed on 9 / 5 / 1944, that we by and objection petition written the time prescribed by the rules in this behalf. We do Contending there are enquiry in the matter and the D C has forwarded the proceedings to Govt. The allegations are baseless. It is stated that the appeal to the Govt. the functions of the D C and that the election of Mr. Kallesh may be approved

More have been subsequently to Letter addressed to Govt by me

Srikantaiah, the defeated Candidate has by Lawyers notice dated 5-9-44 requested me to inquire into the election of Smt. ... It does not appear to be the period of limitation prescribed under rule 1 of the election Rules

It is for orders of the Law Secretary may be consulted in regard to the Legal Objections put forward in the petition

Law Secy) 11/9/44

Yes

12/9/44

For favour of opinion

Asstt Secy Law Dept) 12/9/44

with the copy of election Petn

for 11/9/44

SECY LAW DEPT 2863 12 SEP 1944 GOVT OF MYSORE

No 13 dt 13-9-44

Submitted

The points for consideration are whether

13/9

the meeting for the election of the President was held beyond the period of limitation prescribed under Rule 6 of the Rules whether voting by ballot was valid whether the withdrawal of a contesting candidate ~~on the day of election~~ was valid

Whether the counting of votes by non Puttalingeswara person entitled is valid

The petitioner questions the validity of the Gazette of 18 h 44 rectifying the Kannada version of the previous notification & counting the period of the meeting from the date of the original notification, contends that the meeting was held beyond the period prescribed (Fg B), that the election of the President was held beyond 1 month from the date of reconstitution Rmd ref is invited to G O No L 7231 2 M/42 43 45 d 17 1 44 conferring the privilege of electing its own non official president (Fg 1) and also the subsequent notification (Fg L) d 18 h 44 omitting the word 'elected' in the previous notification It appears * * legal for all purposes that the date of notification is to be reckoned as 18 h 44 and not 17 1 44 (as the petitioner contends) and the subsequent ele meetings are in time Rmd ref is invited to Rule 1 of Rules regulating election of Presidents (page 55)(47)

Regarding voting by ballot Rmd ref is invited to Rule (5) which only says that election shall be decided by an elimination process On the absence of any specific system, provides for voting by ballot as in the case of election of Vice Presidents (Rule 6 (1) of Election Rules for V P appears to be correct

election of President to Hungarian House Municipality

2116 (f) The objections re withdrawal of candidature and counting of votes by an untrusted person with the presence of the parties themselves do not seem to be irregularities. The objection regarding the difficulty of language and the consequent voting for a different candidate from the one different candidate appears to be untenable in view of the fact that there was ample scope for the voter to make enquiries and especially so when the proceedings was followed with the consent of the parties. Kind ref is invited to the proceedings of the special meeting (Pg 8) dated the objections of voters (Pg H) etc appears to show the procedure followed is not irregular

7 May 44 The above issues See 10(2)(c) The Hon'ble Minister may be pleased to issue necessary orders regarding the procedure of election of Vice-President

When letter above was issued the Council was functioning under Chairman as President The term of the Council was to expire on 31 3 44. So a new Council was reconstituted on 1 4 44

see May B

Board was prepared for the election of the Hon Officers of Students which was fixed for 17 4 44 (Hon Secretary & Hon Treasurer)

Mr Mr Kellick stood for the President's office & he was a nominated member, & so the Members rejected his candidature as he could not stand for election by virtue of Hon Secretary Mr Kellick came up & he asked me, why after having the forms passed Mr X's name, & wrote Mr A letter to Govt.

My A.C. was of opinion that Mr I's name was not correct, that as Kellick could stand for Election, that Mr A must be amended that pending orders of Govt, the Election may be postponed Thereafter Govt passed orders accepting Mr I name — that name is Mr L, dated 18 4 44

On a perusal of Mr A letter, it is clear that Mr I name (as well as Secretary Treasurer) should be removed as Mr A letter) materially prejudiced the election, inasmuch as Mr Kellick could not stand for Election being a nominated member The material irregularity was overlooked by Govt — & certainly Govt had the right to rectify it — by virtue of Mr L name dated 8 4 44 which gave the right to Mr Kellick stand for Election

After Mr L name was passed a fresh ballot & Counting was prepared from 4 5 44 & the date to elect the Hon

according to the said Calendar. Election was held on which secured 8 votes, which [illegible] as such he was duly elected

The Contention is that the election is void. One of the most important points is that the election was not held in accordance with the Rules regulating the Election of the Bursar. Rule 9 of the Rules of the College of Physicians provides that every Fellow shall have a right to vote at every election of Bursar. We have already seen that notice of vacancy was received by first of Fellows on May 4 1944. Rule 4 of 1844 provides that the Council shall exercise their privilege of electing a President from among their members, as set out in Sec 10 (1)(c) of the Act

The Council has resolved that an election shall be held on 1 4 44, and in accordance with Rule 1 (11) of the Rules regulating the Election, the election ought to have been held not later than one month from the date of the vacancy. Rule 1 (11) does not seem to apply to this case, because it refers to "record title of a Council shall expire" [illegible] There is a case where the privilege of Council, under Sec (2) (c) of the Act, the privilege of the Council, but it could not be exercised in accordance with the Rules of Rule 9 [illegible] Rule 9 was not complied with, and the election of the President, to which the Fellows were entitled, was void. The Council approved the action, and notified Fellows accordingly. (Rule 4) Thus far, the action is perfectly legal

The date when the vacancy occurred was 1st May 44 when the Vice-Chancellor died. The Petition was rejected, the effect of the Vice-Chancellor's death being to create a vacancy which could not be filled up by election. The Petition was rejected on 18th May 44, the date fixed for election by the Statutes was 9th May 44, and the election was held then as the Petitioner's counsel stated from the date of the vacancy when the office of Vice-Chancellor became vacant. In this case it became vacant on 1st May 44 as stated & 9th May 44 is certainly within 2 months from 1st May (see Rule I (1) (b))

As regards the other objection they seem to be wholly frivolous & I do not think it is necessary to go into them. The findings of the Commissioners on these points are correct.

I do not find any reason for interfering with the election. The objection that the Petitioner was not duly elected, & was entitled to be declared elected, is not one which can be entertained in these proceedings. The Petitioner's remedy, if he has any, would be by action.

1643

at all 9 times the defeated candidate 12
& Councillors the said Corporation ~~proceedings~~
are ~~to be~~ stayed ~~and~~ ~~that~~ ~~the~~ such ~~election~~

I therefore hold that the election held
~~is~~ in accordance with Rules, & the election petition
be dismissed

3118
21 SEP 1944
MYSORE

(Law Secretary) 3/ 25/9/44

Cus
21-9-44

(Asst Secy
L S G)

Sept 26th above pl
25/9/44

Sept Notification submitted for
Hon 23/9 approval, in accordance
with the last opinion above

An endorsement will be
separately issued to the petitioner
rejecting his application

Forwarded
Lawrence 25/9/44

It may be there
a Notification issued

Cus
24-9-44
for

SECY LAW DEPT
3118
21 SEP 1944
CITY OF MYSORE

OFFICE OF THE MINISTER
FOR L S G & P H
Date 25 9 44
No 2436

Under Sec 25/9

3/11/44

Yes, I may have done
I wonder if he knows how much
[illegible] order in force

10/4
6.10.44

Ans
7-10-44

Asst Secy
KSS
4C

3
7/10/44

1) Typed with copies
2) Returned with copies re the other point raised by the minute

L
10.10.44

To,
The compiler, Mysore Gazette
L 3449 dt 17-10-44
Notifies the election
L 3450 dt 17-10-44 — Asks a copy to the D.C. Chitaldrug

A draft letter is perhaps to get the petitions back from the D.C's office
Issue
L
[illegible]

9/11

Letter No A6 928/44 dt 22-11-44
forwards the petitions called for
The petitions have been received
Item maybe recorded
L 23/11/44

2/11
orders already taken separately & thus recorded

B * The extracts from the newspapers

3491 [illegible]

To L4649 dt 10-11-44

The D e chatalong Oi

Sir,

I am directed to request-
you to arrange to return the
affd
the petitions submitted
direct to the secretariat
enclosing the ~~election~~ of
validity of the election of Dr
A M Kalliah which were sent
both by mistake with the other
records of your office under
this office memo No L 3405 dt
17-10-44 ~~forwarding a copy of~~
~~No~~ of this may kindly be treated
as immediate.

I have etc
for Secretary
to Government

3497/15

dress —Dismag
ITALDRUG

In reply please refer to
No A6 928/44-45
Enclosures two petitions

OFFICE OF THE Deputy Commissioner,
CHITALDRUG DISTRICT

Dated Chitaldrug 2nd November 1944

FROM The Deputy Commissioner,
District Magistrate,
Chitaldrug District Chitaldrug

SECY LAW DEPT 21 GOVT OF MYSORE

To C Narayanaswami Naidu Esquire ,B A ,B L ,
Legal Remembrancer and Secretary to
Government,Law Department,
Bangalore

Appeal petition connected with the validity of the election of Mr A M.Kallaiah,President, Hiriyur Municipality

Sir,

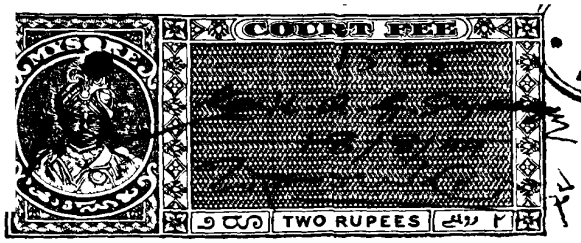
Adverting to your letter No L 4649 dated 10th November 1944, I have the honour to forward herewith the two appeal petitions sent with your memo L 3450 dated 17-10-1944 and to state that no other records of your office were received with the same

I have the honour to be,
Sir,
Your most obedient Servant,

for Deputy Commissioner,
Chitaldrug Dist

Absent from Headquarters

C L F 1/



1262/LL/15 - LSG BRANCH

Rupees 44

BEFORE THE GOVERNMENT OF MYSORE AT BANGALORE

Representation of H Srikantiah,
Municipal Councillor,
Hiriyur

The petitioner was a candidate for the office of President of Hiriyur Municipality The election was held on 9-5-1944 and Mr Kalliah was declared elected, the presiding Officer holding that Mr Kalliah had secured 8 votes and that the present petitioner had secured 7 votes Thereupon the petitioner and two others filed a petition before the Deputy Commissioner, Chitaldroog District, contesting the validity of the election The Deputy Commissioner appointed the Sub Division Officer, Chitaldroog Sub Division, to hold an enquiry in to the matter The Deputy Commissioner's report has been or is about to be submitted to Government

The petitioner wishes to invite the Government's attention to the following points pertaining to the matter -

I The Right of electing a President was granted to the Hiriyur Municipality by G O No L 7231-P/M1 42-43-35 dated 17th January 44 This order was published both in English and in Kannada The preamble of the English Order and both the preamble and the body of the Kannada Order, make it quite clear that

it was only the elected councillors of the Municipality that could stand as candidates for the Presidentship This matter was brought to the notice of the Amildar and Ex-Officio-President of the Municipality even prior to the election, i e on the very date which was fixed for giving notice of candidature The Amildar-President upheld the contention, but when Mr Kalliah took the matter to the Deputy Commissioner, the latter took a different view It is respectfully submitted that the Deputy Commissioner's view is incorrect The Government Order leaves no doubt in the matter In any event, it would be wrong to suggest that the Kannada Notification in the official Gazette was incorrect and inoperative It is no doubt true that there is a subsequent notification by Government in consequence of which the restriction was removed and the right of standing as candidates for Presidentship was thrown open to non-elected councillors also But this order was passed on 18-4-44, by which time, proceedings connected with the election e g , publication of calendars of events, &c , had already commenced The said Notification could not have retrospective effect

2 According to the Rules framed by Government, the right of election should be exercised within two months of its being conferred on the Municipality The right not having been exercised within that period, it lapsed and it could not be revived in favour of the succeeding council

18 8 1944

3 Even assuming that the newly constituted council could exercise the right of electing its own President, ~~that~~ the election should take place within one month from the date of the reconstitution The date ~~of~~ originally fixed for the election of the President was well within that period But the date was subsequently altered The election, in fact, took place on 9-5-1944, the council having been reconstituted on 1-4-1944 The reconstituted council could not exercise the right of electing its own President For ~~these~~ this reason also, the election is invalid

4 There were three candidates for the office of ~~the~~ Presidentship The third candidate Mr Abdul Wahab, was permitted to withdraw on the very date of election There ~~was~~ no provision enabling a candidate to withdraw Hence the councillors should have voted having all the three candidates before them Removal of one of the candidates from the list unauthorisedly has rendered the election invalid

5 The Rules definitely prescribe that voting ~~by the~~ shall be by process of elimination This was not followed Hence the election is invalid

6 The Rules do not provide for voting by ballot Nevertheless, the voting was by ballot This was illegal and has materially affected the result as it handicapped some of the councillors in duly exercising their votes This is borne out by the evidence on record

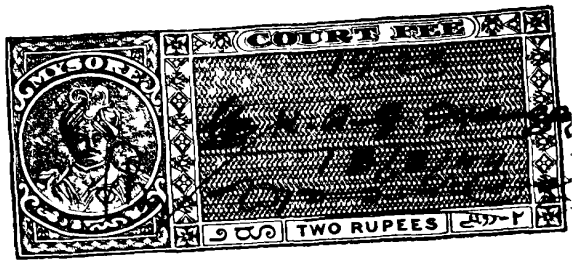
For all the reasons mentioned above, the petitioner submits that Government be pleased to declare the election invalid

The petitioner prays that in view of the importance of the matter, an opportunity may kindly be given to him to hear him either personally or through counsel before final orders are passed by Government

Petitioner

Advocates for petitioner

Bangalore City,
August 18, 1944



ಹೈಕೋರ್ಟು ಸಂಸ್ಥಾನದ ಪ್ರಧಾನ ಸಿವಿಲ್ ನ್ಯಾಯಾಧಿಪತಿಯವರ ಕೋರ್ಟಿಗೆ 46

1944— 1945 ನಂಬರು

~~ಅಪೀಲ್—ಪಾವಿ~~ ಆರ್ಜಿದಾರ್ ಅಪ್ಪ ಲ್ ಪ್ರತಿವಾದಿ ರಿಸ್ಪಾಂಡೆಂಟ್

H Sankantiah
Municipal
Commissioner
Hungund

} Vs {

ಮಾ। ರಾ। ನಿಟ್ಟೂರು ಶ್ರೀನಿವಾಸರಾವ ಬಿ ಎಸ ಸಿ ಬಿ ಎಲ್

ಮತ್ತು

ಮಾ। ರಾ। ಕೆ ಆರ್ ಗೋಪೀವಲ್ಲಭ ಆಯ್ಯಂಗಾರ್, ಬಿ ಎ ಬಿ ಎಲ್

ಅಡ್ವೋಕೇಟರು ಬೆಂಗಳೂರು ಸಿಟಿ ಇವರಿಗೆ

Petitioner ಬರಸಿ ಕೊಟ್ಟ ವಕಾಲತ ನಾಮಾ

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವುಗಳು ನನ್ನ / ನಮ್ಮ ಪರವಾಗಿ ಕೌನೆಯವರಿಗೂ ಕೋರ್ಟನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸುವುದಕ್ಕೂ ನನ್ನ / ನಮ್ಮ ಪರವಾಗಿ ತಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಲರ್ಡರುಗಳನ್ನೂ ಡಿಕ್ರಿಗಳನ್ನೂ ಜಾರಿ ಕ್ರಮ ನಡೆಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ ನನಗೆ/ನಮಗೆ ಕೋರ್ಟಿನಿಂದ ಸ್ಟ್ಲಬೀಕಾಗಿರುವ ಡಿಕ್ರಿ ಹಣ ಬಾಕಿ ಹಣ ಸಹ ಪಡೆಯಲಿಕ್ಕೂ ದಸ್ತೈವೆ ಜು ವಸ್ತೈರೆಗಳನ್ನು ವಾಪಸು ಪಡೆಯಲಿಕ್ಕೂ ಮತ್ತು ನನ್ನ/ನಮ್ಮ ಪರವಾಗಿ ಮೊಕದ್ದಮೆಯನ್ನು ರಾಜೀ ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ ಸಹ ತಮಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ/ವೆ ಅಲ್ಲದೆ ತಾವಾಗಲಿ ತಮಗೋಸ್ಕರ ಮತ್ತಾವ ಲಾಯರಾಗಲಿ ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು/ನಾವು ಸ್ವತ ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪ ನಡೆದುಕೊಳ್ಳಲು ಬದ್ಧನಾ / ರಾಗಿ ಇದ್ದೇನೆ / ವೆ ನಾನು / ನಾವು ಕೊಡಬೇಕಾದ ಫೀಜು ಬಾಕಿ ನಿಂತಲ್ಲಿ ತಾವು ಮೊಕದ್ದಮೆಯಿಂದ ರಿಟೈರ್ ಆಗಲು ನನ್ನ / ನಮ್ಮ ಅಭ್ಯಂತರವೇನೂ ಇಲ್ಲ

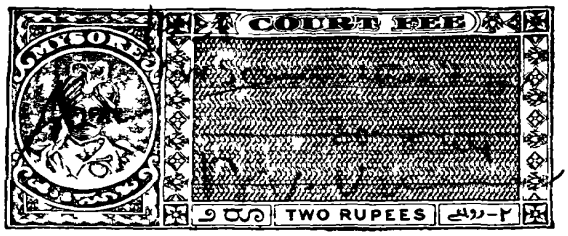
ಬೆಂಗಳೂರು ಸಿಟಿ
ತಾರಿ ಖು } ರುಜು K Reekant

Bangalore
2 18/8/44 ಈ ಮೊಖ್ತ್ಯಾರುನಾಮೆಯನ್ನು ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ತ ರಾಗಿ ನನ್ನ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುತ್ತಾರೆ } ಈ ಮೊಖ್ತ್ಯಾರುನಾಮೆಯನ್ನು ಅಂಗೀಕರಿಸಿದ್ದೇವೆ

Isa

Illegible 17/8/944

ಕೆ ಪಿ ಹೆಚ್ ಪ್ರೆಸ್, ಕೋರ್ಟ ಬೆಂಗಳೂರು ಸಿಟಿ



Before the Government of his Highness the Maharaja of Mysore at Bangalore

Petitioner:- H Srikantiah, Municipal Councillor, Hiriyur

The Petitioner begs to state as follows:-

On the 17th of January 1944, by means of a notification in the Mysore Gazette, the Government made an Order granting to the Hiriyur Minor Municipal Council, the privilege of electing its own nonofficial President of the said Municipal Council under Section 10(2)(c) of the Minor Municipalities Act The then Municipal Council having ceased to exist on the 31st of March 1944, the Council was again reconstituted after a fresh election held for that purpose from the 1st of April 1944 On the 9th of May 1944, the Amildar President of the said Municipal Council purported to hold a meeting for the election of a Non-Official President for the aforesaid Municipal Council and in that election one Mr A M Kalliah was declared to have secured 8 votes and therefore duly elected The Petitioner was also a candidate in the said election and he is said to have secured 7 votes therein

Thereupon under ~~Section~~ Rule 7 of the Rules regulating the election of Presidents to the Municipal Council, the Petitioner contested the validity of the election of Mr A M Kalliah in writing by means of a petition which he filed before the Deputy Commissioner

Deputy Commissioner for that purpose specifying the grounds on which he was disputing the validity of that election The learned Deputy Commissioner directed an enquiry to be held into those objections by the Sub Division Officer of Chitaldrug who, the Petitioner understands has reported the proceeding together with his opinion to Government Since the Government has to pass orders on the validity of the objections raised by the Petitioner now and since there are several questions of great importance involved in the objections taken up by the Petitioner the validity of the election, the Petitioner begs for permission to present this petition explaining his position in sufficient detail for the kind consideration of the Government which will make it quite clear that the election of Mr A M Kalliah is in the face of it invalid and cannot stand -

1 Under the Rules regulating the election of the President of the Minor Municipal Council, it is provided by rule 1 that the meeting that has got to be held for the election of the Non-Official President must be on a date not later than 2 months from the date of the Government Order granting the privilege to the Municipal Council of electing a Non-Official President This order was passed on the 17th of January 1944 so that the meeting for electing the Non-Official President should have been held on a date not later than the 17th of March 1944 This was not done and on the contrary the meeting was held ~~only~~ nearly 4 months after the date of the Government Order viz, on the 9th of May 1944 An election in any such meeting is clearly ultra vires, invalid and not sustainable

2 On behalf of Mr A M Kalliah it seems to have been represented before the Sub Division Officer who enquired into this Election dispute that the date of the Government Order granting the privilege must be taken to be 18th of April 1944 and not the 17th of January 1944 This argument

argument is based upon the circumstance that ~~kkm~~ on the 18th of April 1944 the Government pointed out that in the Kanarese transalation of the Order of Government dated 17th of January 1944, there was a mistake and that the Kanarese Transiation which said that the Non-Official President has to be elected only from among the elected members, was wrong The Petitioner begs to submit that this argument is both unsound and incorrect for the following reasons:- 48

(a) The Order which was published in the English Gazette on 17th of January 1944 does not contain any mistake but on the face of it makes it clear that the Non-Official President is not necessarily to be elected from among the elected members and the Order is quite general and is in accordance with the Minor Municipalities Act and is quite clear that the Non-Official President can be elected from among all the members of the Municipal Council, elected or nonelected This Order being an order which was correctly promulgated and being quite exhaustive and full and being in no manner incorrect or inaccurate, it must be taken that the Government Order referred to in Rule 1 of the Rules regulating the election of the President was and is the order dated 17th of January 1944 If that be so no meeting for electing the President in pursuance thereof could be held on any date not later than the 17th of March 1944 The mere fact that the Government pointed out that the Kanarese Transiation is wrong whatever may be, the date on which that mistake was pointed out, does not alter the date of the Government Order which was duly and validly made on the 17th of January 1944 The Order of the 18th of April 1944 only points out that the Kanarese Transalation was wrong but the pointing the mistake does not amount to a fresh Order bearing the date of 18th of April 1944 Indeed it would be wrong to contend that there was an Order by the Government on the 18th of April 1944 granting the privilege to the Hiriyur Minor Municipal Council of electing a Non-Official President for the simple

simple reason that such a privilege had already been granted by its order dated 17th of January 1944 and no new Order granting such a privilege was either necessary or was in fact made by the Government The ~~representation~~ repl therefore on behalf of Mr Kalliah to the objection taken by the Petitioner that the meeting was held beyond the time prescribed by the Rules, cannot stand scrutiny If this point raised by the Petitioner is decided in his favour he submits that the Election has got to be set aside as utterly invalid and no other question would arise

(b) The other objection which has been raised by the Petitioner in regard to the validity of this Election is that since the Council was reconstituted as mentioned above on the 1st of April 1944 under clause 2 Rule 1 of the Rules regulating the election of the President , the meeting for electing a Non-Official President has to be held on a date not later than one month from the date of the reconstitution of the Council This means that the meeting should have been held on a date not later than the 1st of May 1944, but as mentioned above, the meeting has been held 8 days later that is 9th of May 1944 Even for this reason the election has to be set aside

(c) The other ground taken up by the Petitioner is that no meeting could be held for the election of a Non-Official President from among the members of the reconstituted council having regard to the Rules framed for the election of Presidents The Petitioner invites the attention of the Government to Clause 2 Rule 1 of those Rules This Rule says that if a Council is reconstituted then that Council can elect a Non-Official President only if the previous council which ceased to exist was enjoying the privilege during its tenure In other words, the meaning ~~meeting~~ of that portion of the Rule is if the Council

Council that has become dissolved did not enjoy the Privilege granted by the Government at any time, the reconstituted Council cannot elect its Non-Official President unless the Government grants the Privilege by means of another Order under Section 10 (2) (c) of the Minor Municipalities Act In the present instance although the old Council was functioning on the 17th of January 1944 when the First Government Order was made granting the privilege to the Council, that Council never elected its Non-Official President before it ceased to exist Therefore that Council never enjoyed the Privilege within the meaning of Clause 2 Rule 1 with the result that if that council ceased to exist and another council was reconstituted the privilege granted to the old Council will not be available to the reconstituted Council

The Petitioner also points out that there have been a number of irregularities in the election that has been held on the 9th of May 1944 These irregularities are as follows -

(1) The election by ballot is illegal since that method should not be adopted under the law for the election of Presidents This method has resulted in injustice and is unfair since some of the Councillors did not know Kannada so that the voting by ballot did not afford an opportunity for correct and fair voting as is clear from the evidence before the learned Sub Division Officer, particularly the evidence given by the witness Mr Abdul Aziz

(2) The Amildar President was wrong in allowing Mr Syed Abdul Wahab to withdraw from his candidature This was equally wrong since no withdrawal could be permitted at that stage

stage

The Petitioner begs to sum up very briefly hereunder the points in support of his contention that Mr Kalliah's election is bad -

(a) The meeting was held on a date beyond the period of 2 months provided by Rule 1(a)

(b) the meeting was held again beyond one month from the date provided by rule 1 Clause (2),

(c) The reconstituted council had not on the 9-5-1944 the privilege of electing its Non-Official President since the old Council did not enjoy that Privilege at any relevant point of time

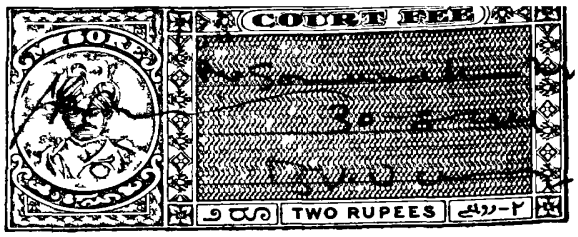
(d) the date of the Government Order referred to in Rule 1 is 17-1-1944 and no other date could be substituted for that date

(e) the election is itself is abundant in serious irregularities and illegalities

The Petitioner begs to add that these points which arise in the above election are matters of great importance and of far reaching consequences and are clearly contentions which would nullify and invalidate the election of Mr Kalliah Since the Petitioner is anxious that these matters should be explained by him through his counsel to this Hon'ble Court before final orders are passed on the report of the Proceedings made to the Government by the Sub Division Officer, he prays that his advocate might kindly be permitted to argue the points arising in this election dispute before the Government passes final Orders

Bangalore,
Dated 4-9-1944

Advocate for Petitioner



Before The Court of H H The Maharaja

₹5.0

~~IN THE HIGH COURT~~ OF MYSORE

NO OF 19 —19

Petitioner

H Sreekhanthaiah

Municipal

Commissioner

Hunsur

Chikkadoddy Desh

Vs

I (H Sreekhanthaiah) the petitioner above named do hereby nominate and appoint **Mr A R Somanath Iyer B A. LL.B Advocate** in the above suit and do hereby empower the said **Advocate** to appear for and on my behalf in the above suit to take all steps which may be necessary on my behalf arising out of or in connection with the above suit either during progress or after its decision to sign and subscribe his name to any document which he may deem proper to execute any decree that may be passed in my favour and to receive out of the Court any refund of money which may be lodged or become payable or receivable on my behalf and on receipt thereof to grant receipt or other sufficient discharges for the same to withdraw compromise or refer to arbitration the said suit to appoint one or more substitutes and to act and perform all other matters and things relating thereto or connected therewith to represent me in matters relating to the same and to act as fully and effectually to all intents and purposes as my I might do if personally present and did the same And I do hereby agree to pay all fees costs charges and expenses which may be incurred and to now ratify confirm whatsoever the said **Advocate** shall lawfully do or cause or procure to be done by the virtue of these presents

In witness whereof I have hereunto set my hand this 14th day of September 1944

H Sreekhanthaiah

ACCEPTED

Advocate for

Signed before me by the executant who is known to me

M 42-4-49

T I Add —Dep ... OF CHITALDRUG

I ply pl e f to
No A6 1669/43-44
E 1 One File & One sealed cover

OFFICE OF THE DEPUTY COMMISSIONER
CHITALDRUG DISTRICT

Dated Chitaldrug 29th August, 1944

1643/L

GEN & P S SECT
2 SEP 1944
L S G BRANCH

FROM

A C Nirvani Gowda, Esq , B A ,
Deputy Commissioner
Chitaldrug District
CHITALDRUG

To

C Narayanaswami Naidu, Esq , B A , B L ,
Legal Pemembrancer & Secretary to Government,
Law Department, BANGALORE

Sir,

Adverting to G O No L 7231-2/M1,42-43-35, dated the 17th January, 1944 conferring on the Hiriyur Minor Municipal Council the privilege of electing its own non-official President, read with your Memo No L 10709 dated the 18th April, 1944 approving my action in having postponed the election of the President, for reasons stated therein, I have the honour to state that the election of the non-official President was held on the 9th May, 1944 and Mr A M Kalliah one of the nominated members, having secured 8 votes against the total strength of 15, was declared duly elected as President of the Municipal Council. Subsequently a petition signed by three municipal councillors, objecting to the election of Mr A M Kalliah non-official President was filed in this Office on the 15th May, 1944, under Rule 7 of the Rules regulating the election of President of Town and Minor Municipal Councils The petition was forwarded to the Sub Division Officer, Chitaldrug Sub Division, for necessary enquiry into the several allegations and submission of a report under Rule 8 The Sub Division Officer has reported that he held enquiry at Hiriyur on 26-7-1944 and that he examined four witnesses and their depositions are

are enclosed in the records The Sub Division Officer in his report dated 3rd instant has dealt with the objections raised in the petition in order and is of opinion that the objections and allegations contained in the petition are invalid and baseless

I agree with the opinion of the Sub Division Officer in the matter and request that Government may be pleased to approve of the election of Mr A M Kalliah, as non-official President of the Hiriyur Municipal Council till the expiry of the term of the present constitution

The entire file of records ending with report No P R 5/43-44, dated the 3rd instant and a sealed cover containing ballot paper received from the Sub Division Officer are herein enclosed for favour of perusal

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Chitaldrug District

S~H

G R S. App. F G 3.

GENERAL AND REVENUE SECRETARIAT

(Continuation sheet draft form).

Revd
to
17.10.41

E.3, 14-P/Mi 42-44-50

Memo —

Notification —

under section 10. (1) (c) of the Mysore Income Tax Act, 1933 and the rules framed thereunder Mr. A M Kallaiah is elected president of the Mysore Income Tax Appellate Tribunal Bangalore for the year

for — being

The necessity of publication in Part III of the Gazette and supply of copies thereof to the Government & the Departmental

Memo no 3434-35/41-42

A copy of the above is forwarded with compliments to the Departmental for information with reference to his letter no A. & . 1669/42-44 dy

WD 03697—GTS—30,000—2-3-40

My records a receipt be given